

**REMARKS**

Favorable reconsideration of this application is respectfully requested in view of the following remarks.

As an initial matter, it appears there is a typographical error on the Notice of References Cited (Form PTO-892) mailed with the Official Action of June 19, 2008. This form cites Japanese Publication No. "407321182." It is believed this publication number should be "40732182," as presented in the text of the Official Action. Applicants kindly request a corrected Notice of References Cited to clarify the record.

The subject matter here pertains to a tube connecting apparatus in which a first holding assembly and a second holding assembly hold at least two flexible tubes approximately in a parallel state. The tube connecting apparatus comprises a first pressing unit provided at the first holding assembly which presses the tubes to a flat state, a second pressing unit provided at the second holding assembly which presses the tubes to a flat state, and a third pressing unit disposed between the first and second pressing units which presses the tubes to flat state. The apparatus further includes a cutting unit which cuts the tubes between the first and second pressing units, and a movement unit which moves at least one of the first and second holding assemblies to relatively change the positions of the tubes cut by the cutting unit such that end portions to be connected closely contact each other.

Claims 1-18 are rejected under the second paragraph of 35 U.S.C. §112. The Official Action states that it is unclear how the claimed second and third pressing units press the tubes to a flat state, when the tubes are already pressed to a flat state by the first pressing unit. It appears the Examiner may have overlooked that,

for example, the claim language does not require pressing of the entire length of the tubes to a flat state by the first pressing unit. Nevertheless, Claim 1 is amended to refer to first, second and third positions at which the tubes are pressed to a flat state. These amendments do not narrow the claim scope. Withdrawal of this rejection is respectfully requested.

Claims 1-18 are rejected under 35 U.S.C. §102(b) as being anticipated by JP 407329182 ("JP '182"). JP '182 discloses a tube connect device comprising first and second tube holding means 2, 3, which hold tubes 7, 8. The first tube holding means 2 includes pinching members 21, 22 and the second tube holding means 3 includes pinching members 31, 32. The pinching members 21, 22 and 31, 32 pinch the tubes 7, 8, during operation. A cutting means 4 melts and cuts each tube 7, 8 and a moving means 5 moves the first tube holding means 2 and/or the second tube holding means 3 in a direction so that junctioning sections of the tubes come into contact tightly with each other.

In rejecting independent Claim 1, the Official Action takes the position that JP '182 discloses each claimed feature. As best understood, the Official Action is of the opinion that the first and second tube holding means 2, 3 and pinching members 21, 22, and 31, 32 in JP '182 correspond to the first and second holding assemblies and first and second pressing units, respectively, as recited in Claim 1. Additionally, the Official Action appears to be of the position that cutting means 4 and moving means 5 of JP '182 correspond to the claimed cutting unit and movement unit.

As noted above, Claim 1 provides for "a third pressing unit which is disposed between the first and second pressing units and which presses the tubes to a flat state." While the Official Action comments that JP '182 discloses a third pressing

unit as claimed, no corresponding feature of JP '182 is identified. Indeed, JP '182 lacks an element which can be considered to correspond to this third pressing unit. JP '182 discloses that the tubes 7, 8 are pinched at two locations by pinching members 21, 22 and 31, 32. The cutting means 4 cuts the tubes between the two sets of pinching members. JP '182 does not disclose any element between the two sets of pinching members which presses the tubes to a flat state as the claimed third pressing unit does.

To the extent the pinching members 21, 22 and 31, 32 correspond to first and second pressing units, respectively, which press the tubes at respective positions, there is no disclosure of a third pressing unit disposed between the first and second pressing units pressing the tubes to a flat state. In JP '182, the only element disposed between the pinching members 21, 22 and 31, 32 is the cutting plate 41, of the cutting means 4, which the Official Action already identifies as corresponding to the claimed cutting unit. Because JP '182 fails to disclose a third pressing unit as claimed, the anticipatory rejection is not supported. For at least this reason, withdrawal of this rejection is respectfully requested.

Claims 2-18 depend from Claim 1, which is allowable. For at least this reason, these dependent claims are allowable. Additionally, these claims recite subject matter further distinguishing the apparatus at hand from those disclosed in the cited references. For example, at least Claims 2, 4 and 8 further define the third pressing unit and its relationship with other elements of the apparatus. JP '182 does not disclose these additional distinguishing aspects of the third pressing unit. Nor does the cited reference disclose the first and second movement units as set forth in

Claim 3. Other dependent claims set forth further distinguishing aspects of the apparatus.

The Official Action does not address any of the dependent claims. In the event the Examiner believes issues remain in connection with this application so as to warrant a further Official Action, the Examiner is kindly asked to discuss each of the dependent claims and note where the claimed subject matter in each dependent claim is located in any prior art reference that may be thought relevant to the dependent claims. In that way, applicants will be in a better position to respond to the rejection(s).

Claim 19 is provisionally rejected on the ground of non-statutory double patenting over claim 12 of co-pending Application No. 10/525,979. The Official Action relies on *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (1968) to support this provisional rejection. Applicants respectfully disagree that this situation falls under the limited scope of *In re Schneller*. Additionally, M.P.E.P. § 804(II)(b)(2) provides that double patenting rejections based on this rationale "will be rare" and must be approved by the Technology Center Director. It is unclear if such a step has been taken in the present case. Nonetheless, to expedite the prosecution of this application, Claim 19 is amended to recite features originally presented in Claim 20, which is canceled by this Amendment. Accordingly, withdrawal of this provisional rejection is respectfully requested.

Should any questions arise in connection with this application or should the Examiner believe that a telephone conference with the undersigned would be helpful

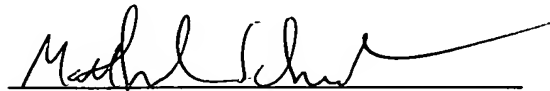
in resolving any remaining issues pertaining to this application the undersigned respectfully requests that he be contacted at the number indicated below.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY PC

Date: September 18, 2008

By:

A handwritten signature in black ink, appearing to read "Matthew L. Schneider", written over a horizontal line.

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